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**From:** Ghosh, Mita [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A452A12681164ADA8730786F1A908E32-GHOSH, MITA]  
**Sent:** 12/15/2020 5:49:53 PM  
**To:** Palmer.Leif@epa.gov  
**Subject:** comments from the Menominee on Florida's 404 assumption package

Leif,

Do you have any thoughts about what we should do about the comments from the Menominee? JMG would like our input.

Mita

Mita Ghosh  
Chief, Water Law Office  
Office of Regional Counsel  
United States Environmental Protection  
Region 4  
404-562-9568

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**From:** Hurl, Kathy <Hurl.Kathy@epa.gov>  
**Sent:** Monday, December 14, 2020 6:57 PM  
**To:** Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; McGill, Thomas <McGill.Thomas@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>  
**Subject:** RE: Florida Application for Assumption of Clean Water Act Section 404 Permitting

Deliberative

Thanks Jeaneanne, Simma, DOJ, Mindy and I are very familiar with these concerns raised by the Menominee in MN. There are several court cases associated with the Aquilla Back 40. EPA R5 did offer to consult on the permit (see attachment). There are also several differences between MI and FL's programs and EPA's actions on the requests to approve 404 programs.

Differences include, we did not consult under NHPA on MI's program approval with the Menominee – R4 has consulted with 8 tribes on FL's request. The MI program does coordinate with their SHPO and their 2011 MOA revisions discusses contacting downstream tribes if their WQ may be affected. FDEP-EPA MOA, OA and the PA all discuss coordination with downstream tribes.

## Ex. 5 Deliberative Process (DP)

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**From:** Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>

**Sent:** Monday, December 14, 2020 6:35 PM

**To:** Ghosh, Mita <Ghosh.Mita@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Creswell, Michael <Creswell.Michael@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; McGill, Thomas <Mcgill.Thomas@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Beck, Whitney <beck.whitney@epa.gov>

**Subject:** FW: Florida Application for Assumption of Clean Water Act Section 404 Permitting

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**From:** Gussie Lord <glord@earthjustice.org>

**Sent:** Monday, December 14, 2020 4:05 PM

**To:** Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; lspice@mitw.org; mcook@mitw.org

**Cc:** paulbackhouse@semtribe.com; lhaikey@pci-nsn.gov; ithompson@choctawnation.com; section106@mcn-nsn.gov; isham.t@sno-nsn.gov; ashively@jenachoctaw.org; jeanineb@miccosukeetribe.com; kevind@miccosukeetribe.com; Jaime Loichinger <jloichinger@achp.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>; Pugh, Katherine <Pugh.Katherine@epa.gov>

**Subject:** RE: Florida Application for Assumption of Clean Water Act Section 404 Permitting

Comments attached.

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**From:** Gussie Lord

**Sent:** Monday, December 14, 2020 2:02 PM

**To:** Gettle.Jeaneanne@epa.gov; Lindzey Spice <lspice@mitw.org>; Melissa K. Cook <mcook@mitw.org>

**Cc:** paulbackhouse@semtribe.com; lhaikey@pci-nsn.gov; ithompson@choctawnation.com; section106@mcn-nsn.gov; isham.t@sno-nsn.gov; ashively@jenachoctaw.org; JeanineB@miccosukeetribe.com; kevind@miccosukeetribe.com; jloichinger@achp.gov; Armor.Suzanne@epa.gov; Pugh.Katherine@epa.gov

**Subject:** Florida Application for Assumption of Clean Water Act Section 404 Permitting

Good Afternoon:

On behalf of the Menominee Indian Tribe of Wisconsin, I am submitting comments on Florida's pending application for assumption of Clean Water Act Section 404 permitting authority.

Please contact me at the number below, or Menominee Tribal Chairwoman Joan Delabreau at (715) 779-5114, if you have questions or would like additional information.

Thank you,

Gussie Lord  
Managing Attorney  
Tribal Partnerships Program  
Earthjustice  
633 17<sup>th</sup> Street, Suite 1600  
Denver, CO 80202  
T: 720-402-3764 x 2631  
[glord@earthjustice.org](mailto:glord@earthjustice.org)



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